

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

HEALTH COALITION, INC., )  
)  
Plaintiff, )  
)  
v. )  
)  
NEW ENGLAND ALLERGY ASTHMA )  
IMMUNOLOGY & PRIMARY CARE, )  
P.C. and THOMAS F. JOHNSON, )  
Individually )  
)  
Defendants. )  
)

Civil Action No. 05-cv-11816 MEL

**EXPEDITED ORAL  
ARGUMENT REQUESTED**

**RENEWED MOTION OF HEALTH COALITION, INC. TO  
ENFORCE SETTLEMENT AGREEMENT**

Plaintiff Health Coalition, Inc. (“HCI”) hereby moves the Court for an order enforcing the Settlement Agreement between HCI and Defendants New England Allergy Asthma Immunology & Primary Care P.C. (“New England Allergy”) and Thomas F. Johnson (“Dr. Johnson”) (collectively “Defendants”). In support of this motion, HCI relies upon the Memorandum of Law in Support of Plaintiff’s Renewed Motion to Enforce Settlement Agreement and the Declaration of Brian M. Forbes dated January 5, 2007, all filed contemporaneously herewith.

Specifically, and for the reasons set forth in its supporting memorandum, HCI respectfully requests that the Court:

- a) Enter the Settlement Agreement as an Order of Court;
- b) Order that Defendants perform under the Settlement Agreement, including without limitation, to provide the documents and/or information necessary to comply with the

settlement with HCI, and to execute the appropriate documents to effect the settlement between HCI and Defendants;

- c) Award HCI its costs, including its attorneys' fees, incurred in making this motion; and
- d) Grant such other and further relief as the Court deems just and proper.

#### **REQUEST FOR EXPEDITED ORAL ARGUMENT**

In light of the Defendants' delay in finalizing and executing the settlement between the parties and the continued risk of prejudice to HCI, Plaintiff respectfully requests that the Court hear expedited argument on this motion. Plaintiff requests oral argument as soon as possible.

#### **LOCAL RULE 7.1(A)(2) CERTIFICATION**

On January 3, 2007, counsel for Plaintiff conferred with Defendants' counsel pursuant to Local Rule 7.1(A)(2) in an attempt to narrow the issues presented in this motion. During such discussions and in its attempt to narrow the issues, Plaintiff's counsel sought the production of certain information (as further referenced in the attached Declaration of Brian M. Forbes). Counsel for Defendants acknowledged such requests. Nevertheless, Defendants failed to provide any of the information requested by the Plaintiff in an effort to resolve this issue without further assistance from the Court.

Respectfully submitted,

HEALTH COALITION, INC.,

By its attorneys,

/s/ Brian M. Forbes

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Dated: January 5, 2007

**CERTIFICATE OF SERVICE**

I hereby certify that this document, filed on January 5, 2007 through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on January 5, 2007.

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/s/ Brian M. Forbes

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**[Proposed] ORDER**

HAVING CONSIDERED all relevant submissions in connection with Plaintiff Health Coalition, Inc.'s Renewed Motion to Enforce Settlement Agreement (Docket No. \_\_\_\_), it is hereby ORDERED that:

1) The Settlement Agreement by and between Plaintiffs Health Coalition, Inc. ("HCI") and Defendants New England Allergy Asthma Immunology & Primary Care, P.C. and Thomas F. Johnson shall be entered as an Order of the Court.

2) Defendants New England Allergy Asthma Immunology & Primary Care, P.C. and Thomas F. Johnson shall provide plaintiff HCI with the information and/or documents listed below, no later than \_\_\_\_\_, 2007:

- Insurance information
  - A copy of the insurance policy (or policies) with all riders;
  - Documents evidencing that HCI is listed as the owner and the primary beneficiary of the policy;

- Confirmation that HCI will be provided with notice of non-payment of any premium owed and notice of intent to terminate; and
  - Waivers from other beneficiaries.
  - Control Agreement
    - Formal written documentation from TD BankNorth to HCI confirming that TD BankNorth will not execute a control agreement for Defendants and HCI, or Defendants and any of their creditors.
- 3) Defendants shall perform under the Settlement Agreement, including without limitation, by providing documents and/or information necessary to comply with the settlement with HCI, and by executing the appropriate documents to effect the settlement between HCI and Defendants.
- 4) Defendants New England Allergy Asthma Immunology & Primary Care, P.C. and Thomas F. Johnson shall pay HCI for all costs associated with its efforts to obtain the above-referenced documentation, including but not limited to all attorneys' fees and costs incurred in connection with the Renewed Motion to Enforce the Settlement.

IT IS SO ORDERED

Dated: \_\_\_\_\_, 2007

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Judge Morris E. Lasker  
United States District Court Judge